

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION**

SHUNDA WILKINS, DIANN	)	
GRAHAM, and DAVID WATSON on	)	Case No. 3:20-cv-00116-DPM
behalf of themselves and all others	)	
similarly situated,	)	Hon. D.P. Marshall Jr.
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
SIMMONS BANK,	)	
	)	
Defendant.	)	
_____	)	

**DEFENDANT SIMMONS BANK’S REPLY IN SUPPORT OF MOTION  
FOR AWARD OF ATTORNEY’S FEE AND PRE-JUDGMENT INTEREST**

Wilkins wants to have her cake and eat it too. She faults Simmons for applying too much effort in seeking recovery of her debt to Simmons. Then she complains that Simmons has not applied enough effort to document the substantially reduced attorneys’ fees that Simmons requests. With respect, Wilkins is in no position to complain about either.

It was Wilkins’s persistent failure to either answer Simmons’s counterclaims or agree to a judgment for even the undisputed \$510.21 portion of her debt that forced Simmons to incur the sizeable fees it incurred litigating this issue, which far exceed the \$5,000 requested fee award. At each turn, Wilkins evaded Simmons’s attempts to negotiate and then staunchly opposed its attempts for Court relief by presenting inaccurate factual and legal arguments requiring rebuttal (despite being told that Simmons would seek attorneys’ fees and despite now asserting that the “counterclaim was straightforward and non-complex,” Dkt. 69 at 5). Requesting only 20 hours of compensation for a much greater quantity of work actually performed (and at a highly reduced billing rate) is more than reasonable under any set of factors for evaluating fee requests.

Given that Simmons requests an award representing only a fraction of the time actually billed at a fraction of the rates actually charged, the affidavit submitted with Simmons' motion is more than adequate to support the requested fee award. It describes the amount and nature of work done. And it provides information about the lowest hourly rate charged. Dkt. 67-1. Providing more would have unnecessarily added to the fees incurred on this issue and burdened the Court and parties with review of billing records, resumes, and other material.

Nor is there any merit to Wilkins's quibbles with the requested \$250 rate or the qualifications of Simmons's counsel. Wilkins asserts the bank selected an hourly rate of \$250 "out of thin air," but that rate was not requested without precedent.<sup>1</sup> And there can be no doubt that Simmons's lawyers possess the qualifications and experience justifying the requested hourly rate.<sup>2</sup>

Wilkins's entirely unsupported effort to pretend that fees should be limited to what is supposedly "customary" for debt-collection matters is equally baseless. The dispute over Wilkins's debt is part of a putative multi-state class action in which Wilkins is represented by six law firms and wants to serve as a class representative. That context, along with the staunch opposition mounted by Wilkins and her lawyers, justifies a \$5,000 fee award.

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<sup>1</sup> See, e.g., *Huffman v. Associated Mgmt. Ltd.*, 2021 WL 3122338, at \*4 (E.D. Ark. July 22, 2021); *Little Rock Sch. Dist. v. Pulaski Cty. Special Sch. Dist.*, 2019 WL 3408892, at \*2, \*5 (E.D. Ark. July 26, 2019); *Scroggin v. Credit Bureau of Jonesboro, Inc.*, 973 F. Supp. 2d 961, 983 (E.D. Ark. 2013).

<sup>2</sup> See, e.g., <https://www.mayerbrown.com/en/news/2020/02/mayer-brown-named-a-law360-firm-of-the-year-for-fourth-consecutive-year> ("Mayer Brown has been named a "Firm of the Year" by Law360 for the fourth consecutive year—the only law firm to hold this distinction. The firm earned this honor by prevailing in eight categories in the publication's "Practice Groups of the Year" series: Appellate, Banking, Benefits, Consumer Protection, Environmental, Project Finance, Securitizations and Tax."); <https://www.mayerbrown.com/en/people/h/holifield-lucy-l?tab=overview>; <https://www.mayerbrown.com/en/people/y/yount-joshua-d?tab=overview> (providing professional profiles for the two attorneys who performed most of the work in relation to pursuing these counterclaims).

## CONCLUSION

For the foregoing reasons, Simmons respectfully requests that this Court grant its Motion for Award of Attorney's Fee and Pre-judgment Interest [Dkt. 67].

Dated: September 28, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 28, 2021, a true and accurate copy of the foregoing was distributed to the following counsel of record through the Court's ECF system:

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